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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BRATLIE, STEVEN A

ART UNIT PAPER NUMBER

3652

DATE MAILED: 02/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/955512

Applicant(s)

LAN, et al

Examiner

BRATLIE

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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/28/03
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 7-12, 14-17, 19, 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7-12, 14-17, 19, 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. No response is found submitted to the PTO-152 form mailed with the Office action of 4/17/03. Appropriate Response Is Required.
2. Applicant's arguments filed November 28, 2003 have been fully considered but they are not deemed to be persuasive. Applicants discussion of certain individual features of the several references is insufficient to show unobviousness where the rejection is based on a combination of the references (In re Young et al, 159 USPQ 725).

It is within the purview of 35 U.S.C. 103 to select features from the prior the prior art to effect results expected from these features (In re Skoner et al, 186 USPQ 80). Moreover, in evaluating such references, it is proper to take into account not only the specific teachings of the references but also the inferences which one skilled in the art would reasonably be expected to draw therefrom (In re Preda 159 USPQ 342; In re Heldt 167 USPQ 676). The test for obviousness is not whether the feature of one reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the combination of references makes obvious to one of ordinary skill in the pertinent art (In re Keller, 208 USPQ 871).

3. Determinations of obviousness take into account the collective teachings of the prior art and level of ordinary skill in the art. The claimed subject matter takes into account only knowledge which a person having ordinary skill in this art would find obvious with the references relied upon by the examiner (In re McLaughlin 170 USPQ 209). The issue of obviousness is not only determined be what the references expressly state, *but also is determined by what they would fairly suggest* to those of ordinary skill in the art (In re Delisle 160 USPQ 806; In re

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Bozek 163 USPQ 545). It is noted skill, not the converse, is presumed on the part of those practicing in the art (In re Sovish 226 USPQ 771) and the conclusion of obviousness can be from "common sense" of the person of ordinary skill in the art (In re Bozek 163 USPQ 545). Since the claimed subject matter would have been obvious from the references, it is immaterial that the references do not state the problem or advantage ascribed by applicant (In re Wiseman 201 USPQ 658).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-3, 5, 7-12, 14-17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Japanese Patent 2000124285, Mori et al and Japanese Patent 10120172.

Cheng discloses a substantially similar device; note holding station #112, screw #125 and controller (col. 8 lines 6-12). Col. 5 lines 57-59 indicate plural screws can be used, as shown in Fig. 3 of Japanese Patent #200012485. Cheng does not disclose

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distance sensors to control the vertical drive. The use of distance sensors are disclosed by Mori, et al col. 9 lines 6-12 and Japanese Patent 10120172. It would have been obvious to a mechanic with ordinary skill in the art at the time invention was made to substitute distance sensors to the primary reference. The motivation is the known substitution of equivalents.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Bratlie whose telephone number is (703) 308-2669. The examiner can normally be reached on Mondays through Thursday from 6:30 to 5:00. Friday is the examiner's day off.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone is (703) 306-4177.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Steven A. Bratlie

**STEVEN A. BRATLIE
PRIMARY EXAMINER**